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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/616,238

07/08/2003

Frederic Droin

979-027

2271

7590

01/04/2005

SOFER & HAROUN, L.L.P.

Suite 910

317 Madison Avenue

New York, NY 10017

EXAMINER

PATEL, HARSHAD R

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,238

Applicant(s)

DROIN ET AL.

Examiner

Harshad Patel

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art or Munck (5,576,489) in view of Bradley (1,999,684).

The admitted prior art or Munck teaches all the features of the instant invention including the vertical groove extending along the lateral wall of the cylinder (4) in the vicinity of and tangential to the partition except for the lateral wall including a vertical cavity at least partly within the height of the wall. Bradley teaches a cavity (not numbered) (Figs. 1, 3-5) on the lateral wall in the vicinity of the partition (16). It would have been obvious to a skilled artisan at the time the invention was made to provide a cavity within the wall of the meter such that a vacuum generation is prevented between the piston wall and the lateral wall. As to positioning the cavity on either the inlet or the outlet side since such arrangement would make no difference other than simply avoiding the vacuum generation since the piston would be oscillating from the inlet side to the outlet side.

As to the cavity/slot having a width of less than or equal to 3 mm, it would be within the scope of a skilled individual to form the width such that the dirt particles do not get stuck in the cavity.

As to the width of the vertical groove being of less than or equal to 2 mm would have been within the scope of a skilled artisan so that fluid is not staggered within the groove.

Response to Arguments

3. Applicant's arguments filed 11/24/04 have been fully considered but they are not persuasive. The applicant argues that the vertical groove is not provided in the cited references. Applicant's attention is directed to the Munck's reference where a groove is provided at the lower portion of the piston in figs. 4 and 5 with various different shapes to collect the dirt particles. Bradley teaches a vertical groove in the vicinity of the partition wall and one on the outer surface of the ring (15) that is not numbered. One having ordinary skill in the art would know that such grooves would help collect the particles thus preventing the piston from jamming during the operation.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2855

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harshad Patel whose telephone number is (571) 272-2187. The examiner can normally be reached on Monday-Thursday (7:00 AM-5:30 PM).

A handwritten signature in black ink, appearing to read 'H. Patel', with a stylized, cursive script.

Harshad Patel
Primary Examiner
Art Unit 2855

hp
December 28, 2004